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## CIVIL RIGHTS CHRONICLE

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### A Message from Jon F. Hall, Acting Civil Rights Director

The Natural Resources Conservation Service (NRCS) is committed to ensuring that all of its employees and customers are provided with a helpful professional working environment and experience. NRCS will offer employment and program delivery services in a fair, equitable, and courteous manner. All employees are expected to adhere to these two basic Civil Rights expectation at all times. As Acting Director for the Civil Rights Division, I fully support the USDA-NRCS civil rights, equal employment opportunity, and diversity policies that ensure that we treat each other and all USDA customers with respect, dignity, and equality.

The dedicated staff of the Civil Rights Division and I take responsibility for supporting the Agency in leading the way in validating that we are complying with established laws and policies that ensure these basic expectations. We strive to obtain your trust, respect and a workplace and customer base that are free from discrimination and harassment. We will do our utmost to support USDA and NRCS efforts in reflecting the diversity of American society at all levels and cultivate an inclusive and seamless workplace environment where uniqueness, background, and experience of all people are appreciated and valued.

Civil Rights is a responsibility that we all must share and adhere. NRCS managers, supervisors, and employees cannot be effective without being fair. We cannot be responsive to the needs of our customers without being sensitive to the human issues we face in our day-to-day operations.

You have the Civil Rights Division's full support and commitment to continuous improvements of the workplace environment for all employees, and the delivery of programs and services to all people. I look forward to providing you with the kind of support that you expect and deserve.



### Jon F. Hall. New Acting Director for the Civil Rights Division:

Jon F. Hall until his detail to the job as Acting Director for the Civil Rights Division was the State Conservationist Maryland/District of Columbia and Chair for the National Civil Rights Advisory Committee. Jon has an extensive employment history that expands over 38 years. This history includes working in traditional NRCS positions such as Soil Scientist, Soil Science Project Leader, Soil Conservationist, District Conservationist, Resource Conservation and Development Coordinator, and State Conservationist. His experience also includes details and collateral duties on strategic planning committees and Civil Rights collateral duties in National, Regional and State positions.



## CELEBRATE DIVERSITY IN NRCS

### East Remote Sensing Lab (ERSL) and East National Technology Support Center celebrated its first ever Cultural Heritage Day

On September 13, 2012, the East Remote Sensing Lab (ERSL) and East National Technology Support Center celebrated its first ever Cultural Heritage Day. Over 50 North Carolina's state & East Center employees attended the event held in Greensboro, North Carolina.



Javier Ruiz, Director of the East Remote Sensing Lab and Dr. Alma Hobbs, Deputy Assistant Secretary for Administration

Dr. Alma Hobbs, Deputy Assistant Secretary for Administration, lead the Cultural Transformation program stressing the importance of acceptance and asked that we all take personal responsibility for treating everyone with fairness and dignity. Also participating in the Cultural Diversity event was a range of participants from live speeches, pre-recorded interviews in which two ERS� employees talked about their heritages and journeys to the United States, North Carolina Immigrants, Czech heritage and many other speakers. There were also performances, including an energizing musical set by Senegalese drum band- Mamadou's Fantastic Band, African-American spiritual songs, poems by Sandra Jones, Irish Dancing by the Walsh Kelley School, and a Scottish bagpipe demonstration by Johnny Burris. In addition, a number of displays were set up, including artist and artifact collections such as the Eastern Native American collection, paintings and pottery by local Hispanic artists. To demonstrate the myriad cultural backgrounds shared within the ERS�, several employees created heritage informational displays and brought in various cultural cuisine samples, ranging from Russian to French Cajun.



Senegalese drummer, Mamadou Tama, of Mamadou's Fantastic Band

The ERS� and East National Technology Support Center 's Cultural Heritage Day was a great way to learn about different cultures and enjoy sharing in their experiences, but the important take-away from the day was that cultural transformation should be a daily and on-going process in us and our workplaces.

Submitted by Anne Pollok

### A Note for Employers about Religious or Holiday Celebrations

Here are a few extra things employers can do to make their workplaces more inclusive during the holidays:

- Make sure your holiday party is not a Christmas party in disguise. Decorations and food should be general, and not specific to any religion.
- Consider having a New Year's party instead of a holiday party. This type of party can get everyone on board with the company's mission and vision for the New Year.
- Post-holiday greetings on your webpage and Intranet for many religious holidays.
- Be respectful of these special dates, and plan events and meetings around various holidays.
- Display a multi-cultural calendar to help all employees stay aware of important cultural events for the rest of the year.
- Be flexible with the needs of different employees about religious or holiday celebrations.
- Encourage employees to share their celebrations through stories, decorations, and foods that they can bring to their workplace.



Article from Simma Lieberman's article on Appreciating Diversity During the Holidays, Diversity's About More Than Just a Simple "Happy Holidays" Greeting Card

## SPECIAL EMPHASIS PROGRAMS (SEP)

### NRCS and Choctaw Nation Partner to “Kick-off” American Indian Heritage Month

Articles submitted by Dr. Carol Crouch AI/AN National SEPM



From left to right

**Ron Hilliard, Oklahoma State Conservationist, and Kathy Sturch Choctaw Artist, Cambra Field, Oklahoma AI/AN SEPM**

The Natural Resources Conservation Service (NRCS) recognizes and celebrates the many different cultures to which we have the opportunity to offer our services and programs to; including American Indians. This year NRCS partnered with the Choctaw Nation to “kick-off” American Indian Heritage month on November 9, 2012, at the Choctaw Nation Headquarters. The celebration featured an autograph signing of the NRCS 2012 American Indian Heritage poster. This year’s winner of the poster contest was Choctaw member, Kathy Sturch. The title of the poster is “Our Past, Present, and Future” with the theme being “Tell me and I’ll forget. Show me and I may *not remember. Involve me and I’ll understand.*” “Having the Choctaw Nation host the autograph signing to kick-off American Indian Heritage month was a honor,” stated Dr. Crouch, National AI/AN SEPM. Representing NRCS were; Ann Colyer, Valerie Hannon, NRCS State Conservationist, Ron Hilliard, Cambra Fields, Oklahoma AI/AN SEPM and Dr. Crouch. Two signing took place; Choctaw Nation Headquarters and Choctaw Nation Community Center in Durant, Oklahoma.



### 2012 NRCS American Indian Heritage Poster Artwork Presented to Choctaw Nation

From left to right

**Kathy Sturch Choctaw Artist, James “Jamey” Wood, II, Assistant State Conservationist, Chief Pyle of the Choctaw Nation**



### National LGBT, SEPM



I would like to take this opportunity to introduce myself. My name is Sharon Nance, and I am currently serving as the NRCS National Lesbian, Gay, Bisexual and Transgender (LGBT) Special Emphasis Program Manager (SEPM). What that very long title means is that it is my honor to assist NRCS in addressing the workplace diversity challenges associated with NRCS employees who are also LGBT, as well as assist the NRCS employees who are fathers, mothers, sisters, brothers, aunts and uncles of LGBT individuals. It is my privilege to work with an excellent group of LGBT SEPM who serve on State Civil Rights committees throughout the country with NRCS.

In 2009, Secretary Thomas Vilsack updated the Departmental Regulation to add the LGBT program to the USDA Special Emphasis arena. The primary role of the LGBT SEPMs is to assist the NRCS workforce by providing accurate information and education on changes represented in law, department regulations and agency policy as well as assist leadership to meet their Title VII responsibilities of a safe and productive workplace for everyone. I invite everyone reading this message to take a few minutes and find out who your state LGBT SEPM is and to take a few more minutes to read the next message they send out as a way of learning just a little bit more about a community of employees who are also an integral part of the NRCS family.

If you would like to reach me, I can be contacted at my office in Fresno, CA, where I am an Area Resource Conservationist.  
[Sharon.nance@ca.usda.gov](mailto:Sharon.nance@ca.usda.gov)



## HOTLAW

**Court, agency bound by EEOC's timeliness determination**  
**2012 LRP PUBLICATION**

When it comes to asserting an affirmative defense, sometimes an agency gets a second bite at the apple. Sometimes it doesn't. When it comes to defending a claim based on untimely EEO counselor contact, there is no second bite. The 11th U.S. Circuit Court of Appeals recently ruled that an agency that fails to challenge an Equal Employment Opportunity Commission ruling on timeliness is bound by that ruling when the case arrives in federal court. The 11th Circuit said its ruling was in line with the other Circuit decision on this issue.

**Case Name:** *Ramirez v. Department of Transportation*, 112 LRP 37387 (11th Cir. 07/12/12)

**Background:** An air traffic controller declined a job offer from the Federal Aviation Administration based on salary. One year later, he learned that several non-Hispanic controllers received the larger salary that he was denied. The next month, he contacted an EEO counselor, alleging that the agency subjected him to discrimination when he was denied the larger salary.

**Administrative Process**

The agency dismissed his complaint because it concluded that he did not contact an EEO counselor within 45 days of when he should have first suspected discrimination. On appeal, the EEOC held that the dismissal was improper. It found nothing in the record showing that the controller knew or should have known the time limits for initiating the EEO process. The agency did not move for reconsideration but began an investigation of the complaint. It denied him relief on the merits of his claim.

**Court Process**

Later, the controller filed his discrimination claim in District Court. In court, the agency again argued that he failed to timely contact the EEO counselor. The District Court dismissed the suit on this ground. The 11th U.S. Circuit Court of Appeals reversed; concluding that the agency and District Court were bound by the EEOC's timeliness ruling. The court explained that when an agency finds that a complaint is timely or fails to challenge an EEOC finding of timeliness, it waives any subsequent objection on timeliness grounds. The court said its holding was consistent with congressional intent. Also, the government could not in its EEOC form say that the employee could go forward, while in a different form say that he could not. The agency was bound by the EEOC's decision that the controller could pursue his claim.

**Electrician proves job qualifications superior to selectees'**  
2012 LRP Publication

**Case name:** *Thirlkill v. Tennessee Valley Authority*, 112 LRP 31720 (EEOC OFO 06/06/12).

**Ruling:** The Tennessee Valley Authority subjected an electrician to discrimination based on his race and sex and to reprisal when it did not select him for a position.

**What it means:** A complainant can prove a non-selection was discriminatory when his qualifications were observably superior to those of the selectee.

**Summary:** An electrician for the Tennessee Valley Authority alleged that the agency subjected him to discrimination based on race and sex (African-American male) and reprisal when it did not select him for the position. The EEOC found that the agency subject him to discrimination and reprisal. The EEOC considered his claim to be one of race-plus discrimination. He established a prima facie case of race and sex discrimination because he was qualified, not referred for an interview, and others not of his protected classes with lesser qualifications were selected. He also established a prima facie case of reprisal. An agency official involved in the selection process was deposed on the electrician's prior EEO complaint less than one month before his application. The EEOC found a sufficient nexus between the EEO activity and the non-selection to raise an inference of retaliation.

The agency explained that it made its selection decisions based on an objective standard, using the supervisor's matrix to rank the candidates. It asserted that the electrician was not rated high enough for an interview. The EEOC found that the electrician demonstrated that the agency's reasons were a pretext for discrimination and retaliation. The supervisor credited the electrician with five to 10 years of experience, when he had 19 years. The supervisor also did not credit him for his associate degrees and specialized license. Education was touted as necessary, but one selectee had only a high school diploma. The agency also interviewed applicants with no craft experience and credited them with more experience than was warranted by their resumes. The agency selected applicants who had less education, experience, and years of service, and who were not black males and did not have prior EEO activity. Agency management officials did not explain why they deviated from applying the agency's standard candidate assessment instrument or why the electrician was rated in a way that failed to fully credit him for his actual years of service, education, and specialized licenses. The agency did not explain why it imposed its requirements selectively, rather than uniformly. The EEOC said the supervisor's matrix was based on subjective criteria that adversely denied the electrician an equal and fair opportunity to compete, based on his actual qualifications.

The EEOC ordered the agency to place the electrician in the position, pay back pay. And conduct a supplemental investigation on compensatory damages.

## CRC WORD FIND — CAN YOU FIND ALL THE WORDS

A	Q	C	O	M	P	L	I	A	N	C	E	B	N
C	R	E	Q	V	L	M	C	N	Y	J	N	N	O
T	N	K	L	G	R	T	O	E	V	B	R	X	N
I	U	U	S	D	A	L	U	J	E	K	C	G	D
O	A	V	S	P	L	A	N	B	B	O	S	W	I
N	X	R	I	G	H	T	S	G	I	M	C	Z	S
W	Q	B	J	T	S	A	E	M	H	U	E	G	C
P	C	I	V	I	L	O	L	Y	F	G	H	I	R
R	D	O	R	B	T	Y	O	N	G	X	M	K	I
E	P	C	R	G	Z	W	R	N	C	P	E	L	M
V	O	Z	N	R	Q	J	I	S	L	M	D	U	I
E	L	N	X	K	E	N	I	A	D	O	I	L	N
N	I	V	I	E	I	C	U	W	Q	V	A	M	A
T	C	M	A	A	K	Q	T	R	G	E	T	X	T
I	Y	Z	R	M	E	C	D	I	L	U	I	T	I
O	S	T	Q	A	P	I	Y	H	V	J	O	N	O
N	O	I	T	A	L	U	G	E	R	E	N	B	N

**ACTION  
CIVIL  
COMPLIANCE  
CORRECTIVE  
COUNSELOR**

**EEOC  
EQUAL  
MEDIATION  
NONDISCRIMINATION  
NRCS**

**POLICY  
PLAN  
PREVENTION  
RIGHTS  
TRAINING**

**USDA  
REGULATION**

### CIVIL RIGHTS COMPLIANCE REVIEW

NRCS Civil Rights Compliance Reviews are conducted to: ensure that policy and procedures are being followed for all USDA Federally conducted and assisted programs and activities; evaluate employment and program delivery processes, policies, and functions; determine Civil Rights and Equal Opportunity compliance; and to provide direction, guidance, and technical assistance to NRCS managers and supervisors to correct any Civil Rights and/or Equal Opportunity compliance deficiencies.

#### FY 2013 Civil Rights Compliance Review Schedule

CONNECTICUT & RHODE ISLAND	DECEMBER 3-7
GEORGIA	APRIL 8-12
KENTUCKY	APRIL 22-27
ALASKA	APRIL 29-MAY 3
WISCONSIN	MAY 6-10
MINNESOTA	MAY 20-24
OHIO	JUNE 3-7
MISSOURI	JUNE 17-21
OREGON	JULY 15-19

# DID YOU KNOW?

## CRD is on the Web!

<http://www.nrcs.usda.gov/wps/portal/nrcs/main/national/about/civilrights>



The U.S. Department of Agriculture (USDA) prohibits discrimination against its customers. If you believe you experienced discrimination when obtaining services from USDA, participating in a USDA program, or participating in a program that receives financial assistance from USDA, you may file a complaint with USDA. [Information about how to file a discrimination complaint](#) is available from the Office of the Assistant Secretary for Civil Rights. USDA prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex (including gender identity and expression), marital status, familial status, parental status, religion, sexual orientation, political beliefs, genetic information, reprisal, or because all or part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.)

To file a complaint of discrimination, complete, sign and mail a program discrimination complaint form, available at any USDA office location or online at [www.ascr.usda.gov](http://www.ascr.usda.gov), or write to:

USDA  
Office of the Assistant Secretary for Civil Rights  
1400 Independence Avenue, S.W.  
Washington, D.C. 20250-9410

Or call toll free at (866) 632-9992 (voice) to obtain additional information, the appropriate office or to request documents. Individuals who are deaf, hard of hearing or have speech disabilities may contact USDA through the Federal Relay service at (800) 877-8339 or (800) 845-6136 (in Spanish). USDA is an equal opportunity provider, employer and lender.

Persons with disabilities who require alternative means for communication of program information (e.g., Braille, large print, audiotope, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD).

## NRCS Civil Rights Division

Name	Position	Phone
<b>DIRECTOR'S OFFICE</b>		
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<b>Employment Compliance Branch</b>		
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Nettie Moment	EEO Specialist	301-504-2164
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Mike Griffin	EEO Specialist	817-509-3406
Julio Cortez	EEO Specialist	951-684-3722 ext 110
Andy Cao-Pham	Student Intern	301-504-0105
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Sheila Shepperd	EO Specialist	301-504-2457
Kimberly Rodgers	EO Assistant	301-504-0304
Janae Dandridge	Student Intern	301-504-2358



## Civil Rights Division

### VISION:

To be an inclusive diverse and equitable Agency that delivers programs in a manner based on and consistent with fairness availability and accountability.

### MISSION:

To be an inclusive, diverse and equitable Agency that delivers programs in a manner based on and consistent with fairness, equality, availability and accountability while ensuring that applicants and employees are treated with respect, dignity and free from discrimination.